MEMORANDUM OF AGREEMENT ("Agreement")

THIS AGREEMENT is made this 1st day of September, 2026

BETWEEN

THE CORPORATION OF THE CITY OF BARRIE

(hereinafter called "the City")

AND

LAKEHEAD UNIVERSITY

(hereinafter called

"Lakehead")

WHEREAS:

A. The City operates various multi-use recreation centres within the City of Barrie.

B. The City of Barrie Recreation and Culture team offer a wide range of amenities including drop-in aquatic programs, drop-in gymnasium programs, drop-in skating programs, and access to the Facilities for drop-in use.

C. A recPASS is required to gain access to City of Barrie Recreation Facilities to use its Amenities.

NOW THEREFORE in consideration of the terms and conditions of this Agreement, and other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, the parties covenant and agree to and with each other as follows:

1. **Definitions**

"Agreement" has the meaning given to it in the introductory sentence above and includes all the provisions of and schedules to this Agreement.

"Amenities" means access to eligible programs which City of Barrie recPASS users are entitled to. At the time of the Effective Date, this includes the following:

- Unlimited access to the Facilities
- All fitness drop-in programs
- All skating drop-in programs (public skates, stick & puck, adult/senior hockey)
- All swimming drop-in programs (open swims, lane swims, aquafit)
- All gym drop-in programs (open gym, basketball, volleyball, pickleball)

The City may occasionally and without prejudice update the list of eligible activities included in the recPASS. The City reserves the right to modify and update the list of eligible programs throughout the Term of this Agreement. The City agrees to provide written notice to Lakehead as soon as reasonably practicable should the list of eligible programs change.

"Base Rate" has the meaning given to it at section 5 a).

"Eligible Students" means Lakehead University STEM Hub (Barrie) Students, as identified by the list of students provided to the City by Lakehead throughout the

duration of the Agreement Term.

“Event of Default” means any of the following events that has occurred and that has not been cured within the cure period, if any, set out below for such event:

- The Fee or Base Rate or any other amount payable by Lakehead under this Agreement is not paid on the date it is due.
- Either party becomes insolvent or bankrupt.
- Either party fails to observe or perform any of its other covenants or obligations under this Agreement, and such default continues for at least 7 days after receipt by the non-defaulting party of written notice of default.

“Facilities” means the Allandale Recreation Centre, East Bayfield Community Centre, Eastview Arena, and Peggy Hill Team Community Centre, collectively. The City reserves the right to update this list as programming levels expand or new facilities are programmed and agrees to provide notice of all such changes to Lakehead as soon as reasonably practicable.

“Force Majeure Event " means any act of God, flood, fire, earthquake, tsunami, explosion, lightning, storm, washout, power shortages, nuclear and radiation activity or fallout, war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, sabotage, riot or other civil unrest, government order or law, strike, lockout, or other industrial disturbance, epidemic, pandemic, quarantine, public health emergency, or any similar events whatsoever not within the reasonable control of the party affected, but only if and to the extent that: (i) such circumstance cannot be prevented, avoided, remedied, or removed despite the exercise of good faith and reasonable diligence by such party; and (ii) such circumstance materially and adversely affects the ability of the party to perform its obligations under this Agreement but lack of funds on the part of such party shall be deemed not to constitute a Force Majeure Event, and such party has taken all reasonable precautions, due care and reasonable alternative measures in order to avoid the effect of such event on the party’s ability to perform its obligations under this Agreement and to mitigate the consequences thereof.

“Full Time Use” means use of the Amenities with a recPASS no more than two times per week for the Membership Term as determined by the formula set out under Section 5 b).

“recPASS” means the pass that provides Eligible Students access to the Amenities, as defined above, within the Facilities.

“Membership Term” means the period of time that the recPASS will allow access to the Amenities. For greater certainty, the Membership Term shall commence on September 1, 2026, and end on August 31, 2027, unless this Agreement is terminated early in accordance with the provisions of this Agreement.

“Term” shall have the meaning defined under section 3 below, unless terminated earlier in accordance with the provisions of this Agreement.

2. Purpose

The purpose of this Agreement is to outline the terms and conditions necessary to affect the continued use of the Facilities by Eligible Students for the Membership Term.

3. Term and Termination

a) The Term of this Agreement shall be for one (1) year commencing on September 1, 2026, and ending on August 31, 2027.

b) Provided Lakehead is not in an Event of Default and, subject to the City's written approval, which shall not be unreasonably withheld, Lakehead shall have the option to renew this Agreement for an additional 1-year term or as otherwise agreed to by the parties in writing.

c) Either party may terminate this Agreement at any time by giving 90 days' written notice to the other party.

d) At the end of the Term of this Agreement or upon early termination, the Membership Term for all Eligible Students will immediately expire and they will no longer have access to use the Amenities with their recPASS.

e) Upon Lakehead committing an Event of Default, the City may terminate this Agreement on 7 days' prior written notice to Lakehead, and the City may pursue any other remedies available to the other party at law or in equity.

4. General Provisions

a) Lakehead will provide the City with a list of Eligible Students by September 1, 2026.

b) Eligible Students will be entitled to all rights and access associated with a recPASS for the duration of the Membership Term. An Eligible Student may not use the Amenities without a recPASS.

c) To obtain a recPASS, each Eligible Student must register at any one of the centres as defined in "Facilities" above. Neither party accepts any responsibility for an Eligible Student's failure to register for a recPASS.

d) The parties understand and agree that the operating hours of the Amenities are subject to change or closures without notice or compensation.

5. Fees

a) The City will invoice Lakehead on September 30, 2026 for $10,732.50 + HST ("Base Rate") for 25 recPASSES. For greater certainty, the Base Rate shall not be lowered or reduced, unless the parties mutually agree in writing. Lakehead agrees to provide full payment to the City within 7 business days of the receipt of the invoice.

b) Calculation of Full Time Uses in addition to the 25 Full Time Uses included in the Base Rate will be completed on April 30, 2027 and August 31, 2027 using the following formula:

= Total Pass Scans / (2 * Number of weeks in reporting period)

c) The City shall invoice Lakehead on or before September 15, 2027, a flat rate

of $2,146.50 plus HST for each group of 5 Full Time Uses above the Base Rate. Lakehead agrees to pay the City within 7 days of receipt of receipt of invoice.

6. Indemnity

6.1 Lakehead hereby indemnifies the City, its officers, directors, shareholders, representatives, agents, and employees and holds each and all of them harmless from and against any and all claims, costs and other liabilities whatsoever that any or all of them may incur in connection with damage to or loss of any person's or entity's property, or bodily or personal injury to or the death of any person or entity, or any other type of claim, loss or damage arising from Lakehead's breach of its obligations under this Agreement, or as the result of any act or omission of Lakehead or of its agents, independent contractors, or other persons authorized to act on behalf of Lakehead in connection with this Agreement.

6.2 The City hereby indemnifies Lakehead, its governors, officers, representatives, agents, and employees and holds each and all of them harmless from and against any and all claims, costs and other liabilities whatsoever that any or all of them may incur in connection with damage to or loss of any person's or entity's property, or bodily or personal injury to or the death of any person or entity, or any other type of claim, loss or damage arising from the City's breach of its obligations under this Agreement, or as the result of any act or omission of the City or of its agents, independent contractors, or other persons authorized to act on behalf of the City in connection with this Agreement.

6.3 Section 6 shall survive the termination of this Agreement.

7. Force Majeure

Notwithstanding any other provision in this Agreement, in the event that either the City or Lakehead shall be unable to fulfill or shall be delayed or restricted from its performance of any term or obligation under this Agreement by reason of any Force Majeure Event, other than Lakehead's obligation to pay the Base Rate or any other monies owed by Lakehead under this Agreement, such party shall, so long and to the extent that any such delay or restriction exists, be relieved from the performance of such obligation and shall be granted a reasonable period of time to perform the obligation once the Force Majeure Event ceases to exist and the other party shall not be entitled to compensation for any resulting loss, damage, inconvenience, nuisance, or discomfort. For this section to apply, the party claiming it is delayed or restricted from performing any of its terms or obligations under this Agreement by reason of a Force Majeure Event shall give the other party written notice within 30 days of the commencement of the Force Majeure Event, explaining the Force Majeure Event, the term or obligation under this Agreement that is restricted or delayed from being performed because of the Force Majeure Event, and how long the delay or restriction on performance is expected to continue. In the event that the term or obligation under this Agreement that is restricted or delayed from being performed by a Force Majeure Event as set out in the notice remains uncured for a period of 14 days following written notice under this section 7, the City may thereafter terminate this Agreement upon 5 days' prior written notice to the other party. Both the City and Lakehead acknowledge and agree that this section 7 does not apply to Lakehead's obligations to pay the Base Rate or other monies owed under this Agreement when due.

8. Transfers

Lakehead covenants and agrees that it shall not assign, or in another way transfer all or part of the Agreement, without the prior written consent of the City, which may be unreasonably withheld or delayed.

9. Notices

Notices. All notices, requests, consents, claims, demands, waivers, and other communications hereunder shall be in writing and shall be deemed to have been given: (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by email of a PDF if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the following addresses or at such other address for a party as shall be specified in a notice given in accordance with this section 9:

To Lakehead at:
Attention: Kathy Pozihun, Vice-President, Administration & Finance
955 Oliver Road
Thunder Bay ON P7B 5E1
Email: kpozihun@lakeheadu.ca
Phone: (807) 343-8010 ext. 8383

C.c.: Office of Legal Counsel
legalcounsel@lakeheadu.ca and lawclerk@lakeheadu.ca

To the City at:

Attention: Chris Gillard, Manager, Recreation Business Services
70 Collier St.
Barrie, ON L4M 4T5
Email: chris.gillard@barrie.ca
Phone: 705-739-4220 x4452

cc : City of Barrie Legal Services Department
Legal.CityInfo@barrie.ca

10. Time of the Essence

Time shall in all respects be of the essence of this Agreement.

11. Amendments

No amendment or modification of this Agreement shall be binding for any purposes unless specifically set forth in writing and signed by the City and Lakehead.

12. Governing Law

This Agreement is governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable in that Province.

13. Entire Agreement

This Agreement constitutes the sole and entire agreement of the parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter.

14. Counterparts

This Agreement and any amendments, waivers, consents, or supplements hereto may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or by sending a scanned copy (”pdf”) by email shall be as effective as delivery of a manually executed counterpart of this Agreement.

15. Confidentiality

a. For this Agreement, “Confidential Information” shall mean personal and/or other confidential information marked or designated as such upon disclosure in the custody or control of either party.

b. Unless court or tribunal order or other legal obligation requires otherwise, the parties may disclose and use Confidential Information only as follows:

   i. They may disclose Confidential Information to each other and use the Confidential Information only to the extent necessary to carry out the Agreement;

   ii. They may disclose the Confidential Information only to their employees, agents and subcontractors who need the Confidential Information to perform their job functions under this Agreement and only to the extent necessary for such performance;

   iii. They shall require the said employees, agents and subcontractors to use the Confidential Information only for the said functions and not to disclose the Confidential Information further; and

   iv. They shall take reasonable measures to secure and withhold Confidential Information from disclosure other than as permitted under this Agreement.

c. If court or tribunal order or other legal obligation compels a party to disclose Confidential Information it has received from the other party, the party so compelled shall inform the other party as soon as possible.

16. Municipal Freedom of Information and Protection of Privacy Act

The parties acknowledge and agree that they are both bound by the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*, RSO 1990 and other privacy legislation. The parties acknowledge the responsibilities implied and agree to adhere to this legislation.

17. Severability

If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

18. Non-Waiver

No condoning, excusing or overlooking by the City of any default, breach or non-observance by Lakehead at any time or times in respect of any provision of this Agreement shall operate as a waiver of the it's right under this Agreement in respect of any continuing or subsequent default, breach or non-observance or so as to defeat or affect in any way the rights of the City herein in respect of any such continuing or subsequent default or breach, and no waiver shall be inferred from or implied by anything done or omitted by the City save only by express waiver in writing. And the doing of anything by the City required by this Agreement to be done by Lakehead shall not relieve Lakehead of their continuing obligation to do that thing.

19. Legal Relationship of the Parties

This Agreement does not create and must not be construed to create any express or implied relationship between the parties of employment or partnership.

[*Signatures on following page*]

SIGNED, SEALED AND DELIVERED)

THE CORPORATION OF THE CITY OF BARRIE

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Wendy Cooke,
City Clerk

Date: _____

LAKEHEAD UNIVERSITY

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Name:
Position:

Date: _____

LAKEHEAD UNIVERSITY

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